

2005 Energy Policy Act: Tax Incentives for New Commercial Buildings and Major Upgrades to Existing Buildings

The following is a summary of the commercial building provisions in the federal 2005 Energy Policy Act. The summary is based on information compiled from various sources including the Consortium for Energy Efficiency and the American Council for an Energy Efficient Economy. Please consult your tax professional on investment decisions based on federal tax incentives.

Time Period: Deductions are available for new construction and major retrofit projects placed in service from January 1, 2006 through December 31, 2007.

Maximum Deduction (Whole Building): The Act provides a tax deduction of up to \$1.80 per square foot for new commercial buildings or reconstructed buildings that achieve a 50% reduction in regulated energy (measured by annual energy cost) compared to ASHRAE 90.1-2001. (ASHRAE 90.1 is an energy standard developed by the *American Society of Heating, Refrigerating and Air-Conditioning Engineers*.)

Partial Allowance (by System): The Act provides for partial deductions of \$0.60 per square foot per system for construction affecting any one of the three building systems. These include interior lighting, HVAC (heating, cooling, ventilation, and hot water), and building envelope. (The building envelope includes everything that separates the interior of a building from the outdoor environment, including the windows, walls, foundation, basement slab, ceiling, roof, and insulation.) Rules will be developed to set the individual efficiency targets to achieve the overall building efficiency goal of 50% over ASHRAE 90.1-2001.

Interim Rules for Lighting Systems: Until the lighting rules have been formally adopted, the law establishes interim rules that allow a deduction of \$0.30 to \$0.60 per square foot for buildings (or portions of buildings) that achieve 25% to 40% lighting power reduction relative to ASHRAE 90.1-2001. In addition, provisions for lighting controls apply to these lighting system retrofits, generally requiring bi-level switching. Warehouses must meet a more stringent standard exceeding the ASHRAE Standard by a flat 50%.

Developing Regulations: The permanent rules establishing standards for energy analysis methods and other details will be established by the Treasury Department with input from the Department of Energy.

Eligibility: The tax deduction is available to the owner of the building. However, for federal, state and local government building projects, the deduction may be transferred to the person primarily responsible for the design of the building.

While the tax deductions are limited to a two-year period, discussions in the Senate indicate there is an interest in making this a long-term policy of the federal tax code. A procedural step has been taken in the Senate to permit a congressional vote to extend the tax incentives another three years to meet the originally proposed five-year period through 2010.

For more information, visit:

<http://www.gpoaccess.gov/bills/index.html>

<http://www.aceee.org/pubs/e053.pdf>

